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PART II—Section 3

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No. 73] NEW DELHI, MONDAY, FEBRUARY 18, 1957

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 7th February 1957

S.R.O. 532.—Whereas the election of Shrimati Yashoda Reddi, as a member of the Council of States, elected by the members of the Andhra State Legislative Assembly, has been called in question by an election petition presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri N. Sankara Reddi, 43/115, Narasingaraopet, Locality-2, Kurnool Municipality;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, RAJAHMUNDRY, (ANDHRA)

Camp:—Kakinada

Present:—

Sri T. H. M. Sadasivayya, M.A.,B.L., CHAIRMAN.

Sri C. Narasimhacharyulu, M.A.,B.L., JUDICIAL MEMBER.

Sri M. Sitharamayya, B.A.,B.L., ADVOCATE MEMBER.

Saturday, the 12th day of January 1957

ELECTION PETITION NO. 5 OF 1956

Between —

Sri N. Sankara Reddi 43/115, Narasingaraopet, Locality-2, Kurnool Municipality—*Petitioner.*

and

1. Srimathi Yashoda Reddi, C/o Sri G. Nagireddi, District Judge, Eluru.
2. Sri A. Balarama Reddi, Kalahasthi, Chittoor District.
3. Sr Vemulla Chenna Kesava Rao, Ongole, Guntur District.
4. Sri Villuri Venkataramana, son of Joggi Naidu, Joginaidu Gari Street, Gavarapalem, Anakapalle Post, Visakhapatnam District
5. Srimathi K. Rahamathunnisa, c/o Mr. K. M. Rahamathullah, ex-M.P Landholder, Anenthapur.

6. Sri Nanduri D. V. Prasadarao, Communist Party Office, Buckinghampet, Vijayavada. (The original name Nanduri Sri Janakiraman was amended as per order dated 16-10-1956 on I.A. No. 3 of 1956).

7. Srimathi K. Rama Subbamma, Member, Municipal Council, Cuddapah.

8. Sri K. Sharaffuddeen, c/o Sri Imamuddin, 8th Ward, 6/121 Anantha-pur.

9. Sri N. Venkata Subbiah Sanjeevinagar, Nandyal—*Respondents.*

Petition dated 30-5-1956 filed under Sections 81 to 84 of the Representation of the People Act, 1951, praying that the election of the 1st respondent to the Council of States by the members of the Andhra State Legislative Assembly held in February—March 1956 be declared void and for declaring the election to be wholly void and for costs of the petition.

This Election Petition coming on for hearing on Monday (17-12-1956) and Tuesday (18-12-1956) at Kurnool; on Thursday (20-12-1956), at Hyderabad; and on Monday (7-1-1957), at Kakinada; upon perusing the petition, written statements of respondents 1 to 4 and other material papers on record; upon hearing the arguments of Sri N. Sankarareddi, petitioner, who appeared in person, his Advocate Sri G. S. Krishna being absent, and of Sri K. Yella Reddi, Sri T. Lakshminarayana Reddi and Sri P. S. R. Bhaskara Murty, Advocates for respondents 1 to 3, the 4th respondent and his advocate Sri M. V. Somasundaram being absent; respondents 5 to 9 having allowed the petition to proceed ex parte; and the petition having stood over to this day for consideration this Tribunal delivered the following

JUDGMENT

Sri N. Sankara Reddi of Kurnool files this petition purporting to be under Ss. 81 to 84 of the Representation of the People Act, XLIII of 1951 (hereinafter referred to as the Act), praying that the election of Shrimati Yashoda Reddi, the 1st respondent herein, to the Council of States be declared void. He also prays for a declaration that the election held in February and March 1956 for four seats in the Council of States is wholly void.

2. In February 1956, the elected members of the Legislative Assembly, Andhra State, were, by means of a notification in the Gazette of India published under s. 12(2) of the Act, called upon to elect four members to the Council of States in accordance with the provisions of this Act and the rules and orders made thereunder, on the appointed day, *viz.*, 22nd March 1956. Sri G. V. Chowdari (P.W. 6), the Secretary of the Andhra Legislature, was appointed as the Returning Officer to conduct the said election, which was to be held under the system of proportional representation by means of the single transferable vote. The petitioner and the nine respondents herein, Shrimati Yashoda Reddi, Messrs. A. Balarama Reddi, Vemula Chenna Kesavarao, Villuri Venkataramana, K. Rahamathunnisa, Nanduri D. V. Prasadarao, Shrimati K. Rama Subbamma, Messrs K. Sharfuddeen and N. Venkata Subbiah, filed their nomination papers before the Returning Officer and they were duly nominated to contest the election. But subsequently respondents 6 to 9 withdrew from the contest and the petitioner and respondents 1 to 5 contested the election. In the election that was held on 22nd March 1956, respondents 1 to 4 were duly declared elected to the Council of States and the result of the election was published in the Government of India Gazette (Extraordinary) dated 3rd April 1956. The petitioner, who was defeated in the said election, filed this petition on 28th May 1956 impugning the validity of the said election as a whole and in particular challenging the legality of the election of the 1st respondent Shrimati Yashoda Reddi (Respondent No. 1).

3. According to the contention raised by the petitioner in his petition, the 1st respondent, who was one of the four persons declared elected is not duly qualified to be nominated and to stand for election for the Council of States as she was only 28 years old at the time of the nomination and as according to Art. 84 of the Constitution of India a candidate for election to the Council of States has to be not less than 30 years of age to be chosen to fill the seat in the Council of States. This objection relating to the constitutional disqualification of the 1st respondent was raised before the Returning Officer and it is alleged in the petition that the said Returning Officer improperly accepted the nomination of the 1st respondent without any proper enquiry and without giving reasonable

opportunity to substantiate the objection. It is, therefore submitted that the election of the 1st respondent is void under s. 100(ii) (c) of the Act on account of the constitutional disqualification of the 1st respondent to stand for election under Art. 84(b) of the Constitution of India. It is further contended that the election having been held under the system of proportional representation by means of the single transferable vote the setting aside the election of the 1st respondent would result in setting aside the whole election inasmuch as the result of the election has been materially affected by the improper acceptance of the nomination of the 1st respondent under s. 100(ii) (c) of the Act. The petitioner also invokes the provisions of s. 100(i) (a) of the Act in support of his contention that the election as a whole is illegal, alleging in his petition that the Congress party which was in power, issued a mandate to the electors to vote for particular candidates only and thus interfered with the free exercise of electoral right directly or indirectly with the connivance of the candidates that have been elected and that undue influence extensively prevailed at the election. Lastly, a technical objection is raised with regard to the conduct of the election by the Returning Officer and it is contended that as the said Officer did not initial or otherwise mark the ballot papers as required by the rules, the election as a whole was materially affected.

4. This petition was opposed by respondents 1 to 3 and in the counter filed by the 1st respondent and adopted by the latter two respondents it is contended *inter alia* that the petition is a frivolous and vexatious one intended only to cause annoyance to these three respondents who happen to belong to a different political party from that of the petitioner. The 6th respondent Sri Nanduri Janakiraman is not a necessary party to this proceeding. It is complained that the petitioner has not disclosed in his petition the source of the information or any material facts relating to the age of the 1st respondent, *viz.*, when and where she was born He has thus not complied with the mandatory provisions of s. 83(1) of the Act As the petitioner did not raise this objection before the Returning Officer at the time of the scrutiny of the nominations, he is not entitled to raise the same before this Tribunal. The 1st respondent, according to her contention, was over 30 years of age on the date of the filing of her nomination as she was born on 5th August 1925 and was, therefore, duly qualified to stand as a candidate for the election under the provisions of Art. 84 of the Constitution of India. The acceptance of her nomination by the Returning Officer can by no means be held to be improper as the said Officer followed the procedure prescribed under s. 36 of the Act at the time of the scrutiny of the nominations and duly accepted the nomination of the 1st respondent on the material placed before him and after giving a reasonable opportunity to the objector and after making a summary enquiry in this behalf. In any event, the election was not materially affected by the acceptance of the nomination of the 1st respondent and as such the election cannot be set aside either in part or in whole. The Returning Officer did not violate any rules or regulations prescribed under law and even if any formalities were omitted in this behalf, such omission did not materially affect the result of the election The electors exercise their franchise freely and their freedom was not interfered with by anybody either directly or indirectly. The allegation regarding undue influence being in respect of a major corrupt practice, the petition ought to have been accompanied by a list of particulars signed and verified by the petitioner as laid down under s. 83(2) of the Act. Since no such list is appended to the petition, the petitioner has failed to comply with the mandatory provisions of s. 83(2) of the Act. The petition is, therefore, liable to be dismissed *in limine* under s. 90(4) of the Act.

5. The contentions raised by the 4th respondent are substantially the same as those raised by the 1st respondent in her counter.

6. Respondents 5 to 9 who withdrew from the contest, allowed the petition to proceed *ex parte*.

7. On the contentions raised by the petitioner and respondents 1 to 4, the Tribunal raised the following issues for consideration, *viz.*,

1. Whether the 1st respondent was aged only 28 years at the time of the nomination and as such not qualified for election under Art. 84 of the Constitution of India?

2. Whether the ballot papers were not initialled or otherwise marked by the Polling Officer? If so, is the election materially affected?

3. Whether undue influence had extensively prevailed at the election for the reasons mentioned in para. 10 of the petition? If so, is the election liable to be set aside as a whole?

4. Whether the petitioner has given the full particulars of undue influence alleged by him as required under s. 83 Cl.(2) of the Representation of the People Act, 1951? If not, what is its effect?

5. Whether the election as a whole is materially affected?

6. Is the petition barred by time by reason of the fact that the name of the 6th respondent was not correctly mentioned at the time of the filing of the petition?

7. To what relief is petitioner entitled?

Issue 6.—S 82 of the Act lays down that a petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election, other than himself if he was so nominated In the petition as originally filed, one Sri Nanduri Janakiraman, said to belong to the Communist Party and a resident of Vijayavada, was impleaded as the 6th respondent. But the notices taken out to the said Sri Janakiraman were returned unserved with the endorsements that there was no such person at Vijayavada. On 10th August 1956 the petitioner filed I.A. No. 3 of 1956 purporting to be under Order VI Rule 17, Code of Civil Procedure, read with S 90 of the Act for permission to amend the petition by substituting the name of Sri Nanduri D. V Prasadarao for Sri Nanduri Janakiraman as the latter name is a type mistake, which was not corrected by him by oversight. This petition was opposed by respondents 1 to 3 who contended that the petition for amendment is beyond the time allowed for filing Election Petition to set aside the election and that, if it were allowed, the valuable right gained by these respondents would be defeated and that the main petition itself should be thrown out as barred by limitation. This contention is the subject matter of issue 6 and it has now to be considered whether the main petition itself can be held to be barred by limitation by reason of the fact that the name of the 6th respondent was not correctly mentioned at the time of the filing of the petition.

9. As has been laid down under s 90(2) of the Act, subject to the provisions of that Act and of any rules made thereunder, every election petition shall be tired by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits. Rule 17 of Order VI of the Code of Civil Procedure confers powers on Courts to allow either party to a suit or proceeding to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties. The Courts will not generally allow an amendment except where there is *bona fides* on the part of the applicant or where the amendment does not cause any prejudice to the other party, such as cannot be compensated by costs or where it does not convert a suit of one character into a suit of another character. The question of limitation would be a good ground for refusing amendment where it is asked for purposes other than of supplying an error or defect, and if a petitioner seeks to introduce fresh matters into his plaint which would deprive the defendants of their statutory defence set up by virtue of the Limitation Act, the amendment should not be allowed. Where a valuable right has accrued to a defendant, it is only in very exceptional circumstances that the Court may allow an amendment of the pleading overriding such rights. Ordinarily, such an amendment ought not to be allowed.

10. In this case a wrong person was impleaded as the 6th respondent, and pleading that this mistake in the description of the 6th respondent has crept in by oversight on the part of the petitioner by not correcting the error of the typist, the petitioner now seeks to amend the name. We find from the records that Shri N. D. V. Prasadarao, whose name is now sought to be substituted for the wrong name, was one of the persons whose nominations were accepted by the Returning Officer. The mistake committed by the petitioner in his original petition must be held to be *bona fide* one. That apart, Order 1 Rule 10(2) of the Code of Civil Procedure enables a Court at any stage of the proceedings, either upon or without the application of either party, to order that the name of any party improperly joined whether as plaintiff or defendant be struck out and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added. This rule draws a distinction between two classes of persons, *viz.*, persons who ought to have been joined and persons whose presence is necessary to enable the Court to completely and effectively adjudicate upon and settle all questions involved in the suit. The first part deals with necessary parties and the second with proper parties. Sri N. D. V. Prasadarao who has now been impleaded as the 6th respondent in

place of the wrong person Sri Nanduri Janakiraman, subsequently withdrew from the contest. He has no more interest in the election now impugned. He can by no means be held to be a necessary party to the proceeding. But as s. 82 of the Act requires that all candidates who were duly nominated at the election are to be impleaded as parties to an Election Petition, he can at best be deemed to be a proper party, whose presence is necessary to enable the Tribunal to completely and effectively adjudicate upon and settle all questions involved in the proceeding, and such a party may be impleaded "at any stage" of the proceeding, and the proceeding should be taken to have commenced against him from the date on which he was impleaded as a party.

11. It is, no doubt, true that s. 82 of the Act requires all duly nominated candidates to be made parties to an Election Petition. But in *Jagannath* v. *Jaswant Singh and others* (1) Their Lordships of the Supreme Court have held that the non-joinder of a duly nominated candidate, who has withdrawn his candidature and has not contested the election, as a respondent to the Election Petition, is not fatal to the petition since no prejudice is likely to result to the petitioner and that the defect could be subsequently cured by the Election Tribunal. This principle was re-affirmed by the Supreme Court in a subsequent decision *Bhikaji Keshao Joshi and another* v. *Brijlal Nandlal Biyani and others* (2).

12. The use of the words "shall join" in s. 82 of the Act by the Legislature does not make the section mandatory and non-compliance with it is only an irregularity. "Where there is a fair choice between a literal interpretation of a certain expression and a reasonable one and there usually is, we should always choose the latter". Following this principle enunciated by Denning, L. J. in *Birch* v. *Wigan Corporation* (3) the High Court of Judicature at Patna held in *Shah Md. Umair* v. *Ram Charan* (4) that the use of the words "shall join" by the Legislature does not make the section mandatory and non-compliance with it is only an irregularity. It has further been held that the expressions "candidates for election" and "candidates at the election" have been used by the Legislature indiscriminately and that the latter expression according to s. 82 covers the case of those who have withdrawn after nomination.

13. It is further important to bear in mind that while under s. 85 and subsection (4) of s. 90 of the Act powers have been given to the Election Commission and the Tribunal to dismiss a petition which does not comply with the requirements of s. 81, s. 83 or s. 117 of the Act, no such powers have been given to dismiss a petition *in limine*, which does not conform to s. 82 of the Act. Such a petition can only be dismissed at the conclusion of the trial and on grounds sufficient to dismiss it. The determination of the question whether the parties to the petition have been properly impleaded is a matter for decision by the Tribunal.

14. In the present case, we are satisfied that it was on account of a *bona fide* mistake due to oversight that the petitioner described the 6th respondent by a wrong name and that on discovery of the said mistake he sought the permission of this Tribunal to amend the said name. As the said candidate subsequently withdrew his candidature, not choosing to contest the election, he is only a proper and not a necessary party to the proceeding. No question of limitation arises in this case as such a party can be brought on record at any stage of the proceeding. We, therefore, negative the contention raised by the 1st respondent under this issue and find this issue in favour of the petitioner.

15. *Issue* 2:—In support of the technical objection raised by the petitioner under this issue, the petitioner relies upon Rule 20 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, which runs as follows:—

> "(1) The Election Commission may direct that before any ballot paper is delivered to an elector at a polling station it shall be marked with such official mark as may be specified by the Election Commission in this behalf and the official mark so specified shall be kept secret.
>
> (2) When any such direction has been issued by the Election Commission the Returning Officer shall provide at the polling station concerned, instruments for stamping the official mark on the ballot papers".

(1) 1954 S. C. 210.

(2) 1955 S. C. 610.

(3) 1953 I K. B. T. 136.

(4) A. I. R. 1954 Patna 225.

This rule relates to the voting at elections in constituencies other than Council constituencies, which is dealt with under Chapter II of the Rules. Even under this rule it is within the discretion of the Election Commission to give direction to the Returning Officer with regard to the marking of ballot papers with official mark and it is only when such direction is issued that it becomes incumbent on the part of the Returning Officer to stamp the official mark on the ballot papers. Chapter IV contains special provisions for voting at elections in Council constituencies and Rule 58 of that Chapter lays down the procedure to be adopted by the Returning Officer before recording votes. According to the said procedure, the elector on entering the polling station shall approach the polling officer in charge of the electoral roll who shall ascertain the elector's name and address and such other particulars as appear on the roll, and, after having checked these with reference to the roll, shall call out the number, name and description of the elector according to the entry in the roll. On the elector's name being called out, the elector shall approach the polling officer in charge of the ballot papers, who shall whereafter deliver a ballot paper to the elector. Before delivering the ballot paper the polling officer shall, where a direction has been issued in this behalf, under rule 20, stamp the ballot paper with such official mark as may have been specified under that rule. Such polling officer shall at the time of the delivery of the ballot paper, place against the serial number of the elector in the electoral roll a mark to denote that the elector has received a ballot paper and shall also enter on the counterfoil the serial number of the elector and the name of the constituency and of the polling station.

16. Thus, under this rule it is only where the Election Commission has issued a direction to the Returning Officer to mark the ballot papers with an official mark that the Returning Officer has to stamp the ballot paper with such official mark as may have been specified under rule 20 before delivering the ballot paper to the elector.

17. Though in para 9 of the petition the petitioner averred that the election as a whole was materially affected by the ballot papers not being initialled or otherwise marked by the polling officer as is required under the electoral regulations, he did not advert to this contention at all in his evidence. He, however, examined on his behalf Shri G. V. Chowdari, who the Returning Officer, appointed to conduct the election in this case as P.W. 6. P.W. 6 admitted that he did not sign or initial or put any mark on the ballot papers issued to the electors He filed into Court a list of elected members of the Andhra Legislative Assembly prepared under s. 152(1) of the Act and it was marked as Ex.A4. The used ballot papers are to be found in the packets, Exs. A5 to A10. Ex A4 would show that the elector to whom the ballot paper was issued by the Returning Officer signed against his name in the electoral roll and that after issuing the ballot papers to each of the electors the Returning Officer has placed against the serial number of the elector a mark to denote that the elector has received the ballot paper. Thus, it would be seen that he has meticulously followed the procedure prescribed under rule 58 of the rules. He also stated that he did not receive any direction from the Election Commission under rule 20 of the rules to imprint any official mark on the ballot paper. He did not, therefore, put any official mark. It is not the case of the petitioner that any such direction was issued to the Returning Officer by the Election Commission. We find, therefore, that P.W.6 has not violated the rules laid down regarding the procedure to be adopted at the time of the polling. The latter part of the issue does not arise.

18. *Issues* 3 *and* 4:—S. 100(1) of the Act lays down that if the Tribunal is of opinion that the election has not been a free election by reason that the corrupt practice of bribery or of undue influence has extensively prevailed at the election, or that the election has not been a free election by reason that coercion or intimidation has been exercised or resorted to by any particular community, group or section to vote or not to vote in any particular way at the election, the Tribunal shall declare the election to be void. Under sub-section (2) of s. 100 it is enacted that if the Tribunal is of opinion that the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt or illegal practice, or that any corrupt practice specified in s. 123 has been committed by a returned candidate or his agent or by any other person with the connivance of a returned candidate or his agent, the Tribunal shall declare the election of the returned candidate to be void.

19. Under influence has been stigmatised by the Legislature as a major corrupt practice within the meaning of s. 123 of the Act. The definition of "undue influence" as given under sub-section (2) of section 123 is very wide in its term and includes four different forms of interfence, viz., direct interfence,

indirect interference, direct attempt to interfere and indirect attempt to interfere. It is nowhere laid down that such interference or attempt to interfere should be by the method of compulsion. It includes such interference or attempt to interfere by any method. It definitely includes the measure of inducement where there will be no compulsion at all, although the inducement must be of such a powerful type as to leave no free will to the voter in the exercise of his choice.

20. The petitioner avers as follows in para 10 of his petition:—

> "The petitioner further submits that the election as a whole is illegal by reason of undue influence having been exercised by the party in power issuing a mandate to the electors to vote for particular candidates only. The petitioner further submits that by reason of the above conduct on the part of the Congress Party in power the free exercise of electoral rights were directly or indirectly interfered with the connivance of the candidates elected and therefore the election as a whole must be set aside under sub-clause(1) sub-clause (a) of section 100 of the Act, inasmuch as undue influence has extensively prevailed at the election."

Thus, according to the averments in the petition, what the petitioner complains of is not any particular kind of interference of attempt to interfere alleged to have been exercised by the candidate or her agent or any other person with the connivance of the candidate or her agent with the free exercise of any electoral right, but that general undue influence alleged to have been exercised by the Congress Party, which had set up the 1st respondent and three other successful candidates to contest the election as their party-candidates. The said party is alleged to have issued a mandate to the electors to vote for the four candidates set up by it, including the 1st respondent. We fail to understand how a party issuing a mandate to the members belonging to it to vote only for their party-candidates amounts to interference with the free exercise of their electoral right.

21. Legitimate propaganda explaining the party's manifesto and view point does not certainly constitute undue influence. All influence cannot be said to be undue as the law cannot strike at the existence of influence. It is only the abuse of influence with which alone the law can deal, and the influence cannot be said to be abused because it exists and operates. Legitimate influence, for instance, the influence of a political party as a whole, cannot be called undue.

22. S. 83(2) of the Act lays down that an Election Petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges including as full a statement as possible as the names of the parties alleged to have committed such illegal practice and the date and place of the commission of each such practice. No such list is appended to the petition and it was contended on behalf of the contesting respondents that the petitioner has failed to comply with the mandatory provisions of S. 83(2) of the Act and that therefore the petition should be dismissed *in limine*, by the Tribunal in exercise of its powers under S. 94 of the Act. But, in this case, as the allegations relate only to general undue influence said to have been exercised by the party in power, it is not necessary for the petitioner to set out the names of the parties who are alleged to have exercised such undue influence. According to him, it was the Congress Party that issued the mandate to the electors to exercise their franchise in favour of a particular candidate or candidates. The date of the issue of such a mandate is, however, not disclosed in the petition. But a mere omission to set out the date of the issue of the mandate, having regard to the circumstances of this case, does not justify the dismissal of this petition *in limine*. The petitioner was, therefore, given opportunity to lead evidence in support of this contention of his.

23. As the verification of the petition shows, this allegation as to undue influence made by the petitioner in para 10 of his petition is based on information which the petitioner believed to be true. Admittedly, therefore, he has no personal knowledge of the averments made by him. As he does not belong to the Congress Party and as he stood for the election as an Independent, he could not naturally be credited with personal knowledge of the mandate alleged to have been issued by the Congress Party to the electors. While deposing as P.W.5, the petitioner did not make a whisper to any mandate said to have been issued by the Congress Party. According to his evidence, though the High Command asked the Congress Party to set up only three candidates as there was no sufficient

strength for the party for the fourth candidate, the leaders of the Congress Party were particular about setting up a fourth candidate, because the petitioner was contesting and they were bent upon defeating him. In his cross-examination he admitted, however, that he has no personal knowledge of the instructions said to have been issued by the Congress High Command to the local Congress Party leaders. It is for a particular political party to decide how many persons it has to set up to contest a particular election after a proper appraisal of its strength. As such, the complaint of the petitioner that the Congress Party set up a fourth candidate despite instructions to the contrary by the High Command with the main object of defeating him is wholly beside the point and irrelevant. The petitioner has unnecessarily dragged in the name of Sri Narla Venkateswararao, who, according to him, declined to stand for election as there was no strength for the party for the fourth candidate. It was only from newspapers that he learnt about Sri Narla Venkateswararao declining to contest the election.

24. The petitioner further states in his evidence that the Congress leaders, who wanted to set up a candidate for the fourth seat, chose the 1st respondent for that seat though there were other women workers in the party who had made sacrifices. The petitioner does not admittedly belong to the Congress Party and we fail to see how he can justifiably object to the qualifications of the candidate set up by that particular party and what such objection has to do with the question of undue influence, with which alone we are concerned in this proceeding.

25. The petitioner, however, examined on his behalf as P.W. 4 Dr. B. Gopala Reddi, who was then the Chief Minister of the Andhra Government and was also the Leader of the Congress Legislature Party. The evidence of this witness shows that an Election Committee was constituted for selection of candidates to contest this biennial election as party candidates. No applications were called for by the said Election Committee. The President of the Andhra Pradesh Congress Party was the *ex-officio* Chairman of the Election Committee. As the party was assured that it would be able to win all the four seats, the Election Committee proposed to set up four candidates to contest the election for the four vacant seats. P.W. 4 stated in his evidence that in his capacity as the Leader of the Congress Legislature Party he wrote letters to the members of the Congress Party to support the candidates set up by the Election Committee. He denied, however, having held out any promise to the members of the Nationalist Party to admit them into the Congress fold if they supported the Congress candidates. Thus, it must be held to have been proved that the then leader of the Congress Legislature Party, who was also the Chief Minister, wrote letters to the members of the Congress Party to support the candidates set up by the party. But the question is whether this act on the part of the leader of the Congress Party tantamounts to direct or indirect interference or direct attempt or indirect attempt to interfere with the free exercise of any electoral right and whether it can be held by any stretch of imagination that P.W. 4 abused his influence. A person having a position of prominence is entitled to canvass for a candidate and the candidate is entitled to derive advantage from the prestige of such a person. As such, legitimate influence exercised by the leader of a party on the members belonging to that particular party will not constitute undue influence. The leader of a party is entitled to use his influence as such and he cannot be deprived of the right to use that influence simply because he happens to be the Chief Minister, and the issue of the whip in no sense constitutes an irregularity in the conduct of the election.

26. Freedom to form or belong to a political party is given to all citizens except, of course, to Government servants. Such a right includes in it freedom to canvass for support amongst the voters. It was in exercise of this fundamental right that P.W. 4, in his capacity as the Leader of the Congress Legislature Party, canvassed votes for the candidates set up by that party. That he happened to be Chief Minister also at that time does not in any way alter the position unless it is shown that he abused his position for furthering the prospects of the Congress candidates. Neither in his pleading nor in his evidence did the petitioner advert to the alleged canvassing by P.W.4 and it is not his case that P.W.4 abused his influence in any manner whatsoever. What P.W.4 did in his capacity as the leader of the party appears to us to be perfectly legitimate.

27. It is of the essence of parliamentary democracy that the Government is run on party system. It is, therefore, open to a political party to acquire strength by legitimate propaganda explaining to the public at large its manifesto and the view point and thus appeal to them to support in election the candidates set up by it, and the influence that it wields over the electors can by no means be said

to the undue influence. On the other hand, it must be held to be a legitimate or wholesome influence. On the first part of issue 3, therefore, we negative the contention of the petitioner that undue influence had extensively prevailed at the election. The latter part of that issue does not arise.

28. The petitioner has, no doubt, not given the date on which the Congress Party issued a mandate to the electors, but on that ground alone the petition so far as it relates to the alleged corrupt practice of undue influence is not liable to be dismissed *in limine*. Issue 4 is held accordingly.

29. *Issue* 1.—This issue relates to the alleged constitutional disqualification of the 1st respondent to stand for election for the Council of States. To ensure that the Upper House, which after all in the contemplation of the founders of the Constitution, was only an advisory body to guide and counsel the Lower House, consists of persons of maturer wisdom born of long and ripe experience, it is enacted under Art. 84 of the Constitution of India that a person shall not be qualified to be chosen to fill a seat in the Parliament unless he or she is in the case of a seat in the Council of States, not less than 30 years of age. According to the averments in para 5 of the petition, the 1st respondent was not duly qualified to be nominated and to stand for the election, because she was only 28 years old at the time of the nomination. According to the verification, this averment is based upon information which the petitioner believed to be true. He has, no doubt, not given in his petition the actual date of birth of the 1st respondent or the place whereat she was born. He has not also disclosed the source of his information. It was contended by the 1st respondent that in not mentioning the above material facts in the petition, the petitioner has not complied with the mandatory provisions of s. 83(1) of the Act. Section 83(1) lays down that the Election Petition shall contain a concise statement of the material facts on which the petitioner relies. The material facts on which the petitioner relies in this case is, that the 1st respondent was only 28 years old at the time of the nomination. He has no personal knowledge of the date on which and the place at which the 1st respondent was born. As such, we hold that there has been substantial compliance with the provisions of s. 83(1) of the Act.

30. Nor can we countenance the contention of the 1st respondent that as the petitioner did not raise this objection before the Returning Officer at the time of the scrutiny of the nomination, he is not entitled to raise the same before this Tribunal. It was on 29th February 1956 that the nomination paper of the 1st respondent was delivered to P.W. 6 and the candidate was informed that the scrutiny would take place on 5-3-1956. She was directed to produce on or before that date the electoral roll or a certified extract of the relevant entries therein. On 5th March 1956, Shrimathi K. Rama Subbamma, the 7th respondent herein filed an objection petition before P.W. 6 that as the 1st respondent had not even completed 29 years of age by that date, she was not qualified to stand for the election. In the meanwhile, the 1st respondent filed before the Returning Officer a certified extract from the entry in the electoral roll of the Eluru Parliamentary Constituency, Ex. B3. That extract gives the age of the 1st respondent as 31 years. P.W. 6 while scrutinising the nomination paper on 5-3-1956, heard the arguments advanced on both sides and accepting Ex. P.3 as *prima facie* proof of the age of the 1st respondent, and having regard to the fact that there was no evidence *contra*, adduced on behalf of the objector, he accepted the nomination paper of the 1st respondent as being valid. He, however, left open this controversy to be agitated before the Tribunal.

31. As has been enacted under s. 36(2) of the Act, the Returning Officer is required to hold only a summary enquiry on the date fixed for scrutiny of nominations under s. 30 of the Act. Sub-section(5) of that section lays down that the Returning Officer shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control. For the purpose of s. 36, the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of the elector named in that entry to stand for election, unless it is proved that the candidate is disqualified under the Constitution or this Act. It cannot, therefore, be said that P.W. 6 improperly accepted the nomination paper filed by the 1st respondent. His decision is, no doubt, not final and the Election Tribunal may, on evidence, hold that the election is void on the ground of the constitutional disqualification and not on the ground that the nomination was improperly accepted by the Returning Officer. In discharging the statutory duty imposed on him, the Returning Officer does not call in question any election as the scrutiny of nomination papers is only a stage in the election process. It is, no doubt, true that the petitioner did not specifically take this objection before the Returning Officer but that does not disentitle him from raising this question in this proceeding before the Tribunal as it goes to the

root of the matter. Thus, the only question that now arises for consideration is, whether, as contended by the petitioner, the 1st respondent was only 23 years old on the date when her nomination was accepted by the Returning Officer, *i.e.*, on 5th March 1956.

32. The initial burden of proof cast upon the petitioner on this question is rendered the heavier inasmuch as he has admittedly no personal knowledge of the age of the 1st respondent. The 1st respondent is the daughter of Sri Galiveti Nagireddi, who hails from a respectable *Kapu* family of Veeraballi village in the Rayachoti Taluk of the Cuddapah District. The petitioner, who also belongs to the *Kapu* community, is a native of Kurnool District. Admittedly he is not in any way related to Sri Nagireddi. His evidence shows that he had but casual acquaintance with Sri Nagireddi, as Sri Galiveti Subbareddi, the elder brother of Sri Nagireddi, served as Deputy Collector of Kurnool for sometime, though it is not known, if Sri Subbareddi worked at Kurnool in the relevant years 1925 or 1927. Whereas according to the case of the 1st respondent she is the only issue of her parents, the petitioner would say that besides the 1st respondent Sri Nagireddi had another female issue born to him at Madras in 1925 and that that child died immediately after delivery. In 1925 Sri Nagireddi was studying in the Law College at Madras, and it is the case of the petitioner that Sri Nagireddi was then living at Madras with his wife Shrimati Lakshmidevi Amma and that the first issue born to them at Madras died at the time of the delivery. He states that he applied for extracts from the Birth Register for 1925 and that so far nothing has been heard by him about his application. According to his information, the 1st respondent must have been born at Madithadu in Rayachoti Taluk in the house of Shrimati Subbamma, the sister of Sri Nagireddi and not at Viraballi, the native village of Sri Nagireddi. An application made by the petitioner to the Tahisldar of Rayachoti for granting him an extract from the Birth Register maintained at Madithadu was returned to him with an endorsement (Ex A12), dated 21-11-1956 informing him "that there is no entry regarding the birth of Yasoda, daughter of Mr Galiveti Nagireddi and Lakshmidevi in the Birth Register of Madithadu village either for 1926 or 1927". Thus, the contention of the petitioner that the 1st respondent was born at Madithadu in 1927 is belied by this endorsement. Nor was he able to prove that the 1st respondent is the 2nd daughter of Sri Nagireddi. In the course of his cross-examination he stated, however, that Sri C. L. Narasimha Reddi told him that Sri Nagireddi had a female child who died at the time of the delivery. He did not choose to examine this person who is alleged to have given him this information. Nor was he able to produce any record from Madras to affirmatively prove the birth of a female child to Sri Nagireddi at Madras in 1925. Admittedly he never visited either Madithadu or Viraballi. His is the only solitary and uncorroborated testimony with regard to this material aspect of the case and this testimony of his takes us nowhere as it is purely hearsay.

33. The petitioner, however, places strong reliance upon the entries contained in the Admission Registers of the various educational institutions in which the 1st respondent studied and those registers are marked on his behalf as Exs.A1 to A3. The earliest of these registers is Ex.A3 relating to the Government Middle School for Women, Cuddapah, which appears to have been converted into Government Multi-purpose Training School for Women, Cuddapah. According to the entry in this register, the 1st respondent was admitted into the I Class of that school on 27-1-1932 and left that school while she was studying in the II Class on 23-6-1933. According to column 8 of that register, her date of birth is entered as 5-8-1927. According to this register, therefore, the 1st respondent must have been aged about 4½ years at the time of her admission into the I Class of this institution and must have been aged about 5 years and 10 months at the time of her leaving the said institution. Ex.A2, which is the Admission Register maintained in the Queen Mary's College, Madras, from 1918 to 1944 shows that the 1st respondent was admitted into the I Year Intermediate Class of that College on 2-7-1943 and left the College while studying in the II Year Class on 5-3-1945, after appearing for the University Examination held in 1945. From the entries made in this register, we learn that the 1st respondent studied for her Secondary School Leaving Certificate Examination in the Board High School at Kasargod in the South Kanara District. The date of birth as entered in this register is, no doubt, given as 5-8-1927. But that must have been carried over from the Secondary School Leaving Certificate, the entry in which must again have been based upon the School Admission Register Ex.A3. Lastly, we have the Admission Register maintained in the Law College, Madras, from the year 1946-47 to 1952-53. This register shows that the 1st respondent was admitted into the Law College on 27-7-1950 and her date of birth is given as 5-8-1927.

34. These entries in the Admission Registers of the various educational institutions in which the 1st respondent studied constitute the only tangible evidence adduced on behalf of the petitioner. As they are entries made by public servants in discharge of their official duties in the official registers they are certainly relevant within the meaning of s. 35 of the Indian Evidence Act. They are admissible in evidence to prove the truth of the facts entered as well as the fact that the entries were made by the particular officers. There is a presumption that when a pupil is admitted into the school, he was accompanied by some close relative of his who must have been aware of his age. It is on the strength of this presumption that an entry regarding the age of a particular pupil in the School Register is held admissible. See *B. Kalaram S. Bhag Singh v. Fazal Bari Khan and others* (1). But in this case we are in the dark as to the persons who caused the entries to be made. The entries in the Admission Registers of the Queen Mary's College and the Law College must obviously have been based upon the entry in the Admission Register of the Middle School at Cuddapah. The petitioner ought to have summoned for the application made on behalf of the 1st respondent for admission into that institution. This register by itself does not show who it was that got the 1st respondent admitted into that institution. The mere entry of the date of birth in the records of educational institutions does not seem to be sufficient, especially where the source of information with regard to the date of birth is not known. It has been laid down by the Calcutta High Court in *Rajah Janaki Nath Roy & others* v. *Jyotish Chandra Acharya Chowdhry* (2) that the statement in the school register about the age of a person, in the absence of evidence to show on what materials the entry in the register about the age of that person was made, has not much evidentiary value. This principle was followed by the Punjab High Court in *Jagannath* v *Moturam and others* (3). As has been observed by the Lahore High Court in *Mohammad Hassan* v. *Safdar Mirza and others* (4) it is very common to make out a person entering into a school to be younger in age than he is and as such the mere entry of the date in the records of educational institutions is not sufficient to rebut the very strong evidence afforded by a birth register. The same High Court held in *Asa Nand* v. *Gain Chand* (5) that entries in school registers are of little value as evidence of age.

35. In support of her case that she was really born in her father's house at Viraballi village in the Rayachoti Taluk on 5-8-1925, the 1st respondent produced into Court a certified extract from the Birth Register of that village granted to her by the Tahsildar of Rayochoti Taluk and that extract is marked as Ex.B2. As the petitioner impugned the genuineness of the entry in this Birth Register, the 1st respondent took out summons to the Tahsildar, Rayochoti, to produce before us the original register itself. It was duly produced before us in a sealed cover by Sri K. Jagahmohan Prasad, (R.W.1), an Upper Division Clerk of the Taluk Office at Rayachoti. This witness swore before us that this Register which was marked as Ex.B1 was entrusted to him by the Tahsildar himself for production before the Tribunal. Ex.B1 relates to the births in the village from January to December 1925 and it is maintained according to the prescribed Form No. 19(1) as Madras Act III of 1899 is not in force in this rural area. Each page in this register which contains 8 columns is used for each month and at the end of each page the total of columns 4 and 5 relating to the birth of males and females is set out, and the Village Munsif who is in law authorised to maintain this register, has put his signature at the end of the entries for each month. In Column No. 1 is set out the consecutive number of the entries and the number for each month is carried over to the next month in this column, the last entry in column 1 being 105, showing that 105 children, both male and female, were born in that village in 1925. Ex.B1(a) is the entry No. 38 relating to the birth of Yasodamma, the daughter of Sri Galiveti Nagireddi and in column 2 of this page the date of birth is shown as 5-8-1925. If this entry were held to be true and genuine, it conclusively establishes the case of the 1st respondent regarding her age on the date of her nomination.

36. A Birth Register is an official Register kept by a public servant in the discharge of his official duty and it is, therefore, relevant under s. 35 of the Indian Evidence Act. Its evidentiary value is much greater than the Admission Registers of educational institutions. The Patna High Court has held in *Nanhak Lal* v. *Baijnath Agarwala* (6), that the certificate of birth of a person is conclusive evidence of his age unless disproved by the evidence of the party denying the correctness of it.

(1) A.I.R. 1941 Peshawar 38-194 I.C. 824.
(2) A.I.R. 1941 Calcutta 41-I.L.R. 1941—I Calcutta 234.
(3) A.I.R. (58) 1951 Punjab 377, (2) A.I.R. 1936 Lahore 601 144 I.C. 45 (39 A.I.R. 1936 Lah. 598—164. I.C. 781.
(4) A.I.R. 1935 Patna 474.

37. The petitioner in his evidence stated, however, that he was told that this Birth Register as well as the register maintained at Madithadu have been tampered with. But he refrained from telling the Tribunal wherefrom he got this information. He did not bring this factor to the notice of the authorities either. Nay, he had not even seen either the Birth Register of Madithadu or Ex.B1. The Birth Registers of the rural areas would be in the custody of the Tahsildar and if the wild allegation made by the petitioner were countenanced, it must be held that the responsible Revenue authorities of the district either tampered with the registers themselves or connived at such tampering by interested parties. The petitioner has not even stated in his evidence when exactly he got this information about the tampering of these official records and at what period they could have been tampered with.

38. To clear up any suspicion that might be attached to Ex.B1, the 1st respondent examined on her behalf R.Ws.2 and 3 who acted as Village Munsifs in the relevant year 1925. R.W.2 Sri Galiveti Venkata Subbareddi who is now aged 60 years is the divided elder brother of Sri Nagireddi. He was then the permanent Village Munsif of Viraballi and after the clubbing of the villages he had been working as the Deputy Village Munsif till 15 years ago. He and Sri Nagireddi were joint till 10 years ago. He was a member for sometime of the Taluk Board and also of the District Board. According to his evidence, his younger brother Sri Nagireddi married Srimati Lakshmidevi Amma in 1924. The parents of Srimathi Lakshmidevi Amma, who belonged to China Gandur, were dead by then. The 1st respondent is the only issue of Sri Nagireddi. She was born in the family house at Viraballi on 5-8-1925. This witness, who was then the Village Munsif in office went on leave in the months of July, August and November 1925, and during those months R.W.3 Sri Galiveti China Venkata Subbareddi acted as the Village Munsif. The entry Ex. B1(a) was made by R.W.3 who happens to be the mother's younger sister's son of this witness. R.W.2 would further say that the new-born child was named on the 9th day of her birth after purifactory bath and her name was entered in column 7 of the register subsequently. This witness admitted that his sister Subbamma lives in her husband's house in Madithadu. But he denies that the 1st respondent was born in his sister's house at Madithadu. He also denied the allegation that a daughter was born to Sri Nagireddi at Madras, and he swore that Sri Nagireddi did not take his wife to Madras while he was studying for law. He added that the 1st respondent during her infancy was given private tuition at Cuddapah for about 2 or 3 years prior to her admission into a regular school.

39. The entry Ex.B1(a) was duly proved by R.W.3 Galiveti China Venkata Subbareddi who actually made it as he was then in office during the absence on leave of the permanent Village Munsif R.W.2. This witness was then living in the family house of R.W.2 himself. He states that the 1st respondent is the only issue of Sri Nagireddi. The entries made in the month of November when R.W.2 was on leave are also in the hand-writing of this witness. He denied that the 1st respondent was born at Madithadu.

40. In view of the grave and serious allegations made by the petitioner challenging the genuineness of this register, we subjected it to close and minute scrutiny and we were unable to find any tell-tale or suspicious feature raising any doubt with regard to its genuineness. It is the surmise of the petitioner that the original sheets containing the entries for the month of August 1925 must have been removed and the sheets as now stand must have been inserted subsequently. The sheet in which ExB1(a) is found contains on its first page six entries from Nos. 32 to 37 which relate to the births of six children in the month of July 1925 and the second page of this sheet begins with Entry No. 38 relating to the birth of the 1st respondent and ends with Entry No. 47. The total of the entries made in columns 4 and 5 show that 7 males and 3 females were born in that month. All these entries are in the same ink. The entries for August are continued in the next sheet beginning from the Entry No. 48 and ending with the Entry No. 68. Entries Nos. 48 to 53 relate to the births in August while entries Nos. 54 to 68 relate to the births in September. Entries Nos. 48 to 53 are also in the hand-writing of R.W.3. The ink in which these entries are made is somewhat different from the ink in Entries Nos. 38 to 47. Entries Nos. 54 to 68 are in the hand-writing of R.W.2. himself as by then he had assumed charge after returning from leave. Entry No. 54 is in a different ink while the other entries are in the same ink as that which might have been used for making entries Nos. 48 to 53. It is on this difference in ink that the petitioner sought to base his surmise. A scrutiny of this register shows that there is no uniformity in the ink used for making the entries and the officers maintaining this register must have been using different kinds of ink and different pens at different times. Ex.B1(b), which is the page in this register on

were made in ink totally different from the ink used in the other portions of this register. Neither R.W.2 nor R.W.3 was cross-examined as to why different inks were used at different times. No argument can therefore legitimately be based upon the difference in ink with regard to the various entries in this register. which entries for November were made by R.W.3. shows that the entries therein Besides, the age of the hand-writing in the entries for the month of August does not a whit justify the suspicion that this sheet must have been inserted recently. It is not disputed that Ex B1(a) is in the hand-writing of R.W.3 who proves it. Ex.B1 has all along been in the custody of the Tahsildar, Rayachoti who caused it to be produced before us in a sealed cover. If really it is the case of the petitioner that R.W.3 somehow managed to get at this register surreptitiously, he could have cross-examined him regarding this aspect. He did no such thing and the evidence of R W 3 stands unshaken We are unable, therefore, to countenance the contention of the petitioner that this official record has been recently tampered with.

41. It is further significant to note that in the electoral roll which must have been prepared long prior to the election now in dispute the age of the first respondent is stated to be 31 years. At the time of the preparation of this electoral roll the 1st respondent, who is an advocate of the Andhra High Court at Guntur, could not possibly have foreseen that she might be chosen by the Congress Party to stand for this election which occurred as recently as in February-March 1956.

42. Besides, it is not the case of the petitioner that no child at all was born to Sri Nagireddi in the year 1925. His contention that a female child was born to Sri Nagireddi in 1925 but that it died at the time of the delivery remains but a bare assertion not propped up by any evidence, oral or documentary. His further contention that the 1st respondent was born at Madithadu has been categorically disproved by Ex.A12. By suggesting in the course of the cross-examination of R. Ws. 2 and 3 that Ex.B1(a) relates to the birth of a daughter to another Galiveti Nagireddi of that village, the petitioner himself must be held to have conceded the genuineness of the entry as per Ex.B1(a). This Galiveti Nagireddi who was an agnatic relation of R.W 2 is said to have died about 30 years ago when he was 70 or 80 years old and his wife is said to have predeceased him. The evidence of R.Ws. 2 and 3 shows that at the beginning of each month the entries of birth relating to the previous month would be regularly sent to the Taluk Office and the Birth Register maintained for each year would be scrutinised by the higher Revenue authorities at the *Zamabandi* of the succeeding year when it would be handed over to the Tahsildar for safe custody. Ex. B1 has emanated from the custody of the Tahsildar and there could possibly have been no opportunity for anybody to tamper with it. It is not possible for us, therefore, to act on mere surmise and accept the contention of the petitioner that Ex. B1 has been recently tampered with by the insertion of fresh sheets in place of the old sheets.

43. Besides the evidence of R.Ws 2 and 3, who happen to be near relations of the 1st respondent, there is also corroborative evidence in proof of the correctness of the entry Ex B1(a). Dontu Subbayya (R.W.4) is a *Vysya* trader of Viraballi. He is aged 80 years. He was also for sometime a member of the Panchayat Board and is in the list of jurors. His house is situate, about 4 or 5 houses off from the house of R.W.2, whereat the 1st respondent was born. He must, therefore, be naturally credited with intimate acquaintance with the family of the parents of the 1st respondent. R.W.5 Konduri Acheyya is a *Kshatriya* resident of Viraballi aged about 75 years. He owns about 30 to 40 acres of land and he was also a member of the Panchayat Board for sometime and was in the list of jurors. Both these witnesses positively assert that the 1st respondent is the only daughter of Sri Nagireddi and she was born more than 30 years ago in her parents' house at Viraballi. The evidence of these two respectable and disinterested witnesses stands unshaken in their cross-examination.

44. The probabilities also are against the petitioner's contention. If his contention regarding the age of the 1st respondent were accepted, she would have been but a child aged 4½ years when she was admitted into the I class of the Middle School. That appears to us to be improbable. R.W. 2 would say that 1st respondent was given private tuition for 2 or 3 years before she was admitted into a regular school. She must, therefore have been about 6½ years old at the time of her admission into the Middle School.

45. After giving our anxious consideration to this controversy and scrutinising with due care the materials placed before us, we hold that the 1st respondent was more than 30 years of age at the time of her nomination and that therefore she was qualified for election under Art. 84 of the Constitution of India.

46. *Issue* 5.—As the election of the 1st respondent is held to be perfectly valid, this issue does not arise.

47. *Issue* 7.—In the result, the petitioner is not entitled to any relief in this proceeding and his petition is dismissed with costs of the 1st respondent, which we fix at Rs. 250/- inclusive of advocate's fee. As respondents 2 to 4 sail along with the 1st respondent, they will bear their own costs.

Dictated to shorthand-writer and Pronounced in open Court, this 12th day of January, 1957.

(Sd.) T. H. M. SADASIVAYYA.
Chairman.

(Sd.) M. SITHARAMAYYA,
Advocate Member.

I agree with all the findings and with all the reasons given in support of the issues by my learned colleagues except in respect of the sum allowed as costs. I feel that a sum of Rs. 250/- for a seat in the Council of States is rather too low. A sum of Rs. 1000/- will be proper.

The petition is dismissed with costs of the 1st respondent. The sum allowed as costs is Rs. 1000/-. This includes all the costs, inclusive of advocate's fee. Respondents 2 to 4 will bear their own costs.

(Sd.) C. NARASIMHACHARYULU,
Judicial Member.

The order regarding costs as passed by the majority members of the Tribunal will stand.

Pronounced in open Court, this 12th day of January 1957.

(Sd.) T. H. M. SADASIVAYYA,
Chairman.

(Sd.) C. NARASIMHACHARYULU,
Judicial Member.

(Sd.) M. SITHARAMAYYA,
Advocate Member.

[No 82/5/56/747]

By Order,—

DIN DAYAL, Under Secy.

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